

## HUMAN SERVICES DEPARTMENT[441]

### Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services amends Chapter 153, "Funding for Local Services," Iowa Administrative Code.

These amendments:

- Provide for disenrollment of members from the State Payment Program when available funds are insufficient to meet the costs of services for all of the members enrolled.
- Require the county central points of coordination for mental health, mental retardation, and developmental disability services (CPCs) to provide for evidence of receipt of an application for State Payment Program funding.
- Clarify the assignment to a waiting list for application approval and remove the exemption for persons awaiting community placement from an involuntary inpatient setting.
- Prohibit reimbursement for case management costs eligible for Medicaid reimbursement, appointments and consultations for which the member did not appear, and other specified administrative and service costs.

These amendments are necessary to reduce State Payment Program expenses due to Executive Order Number 19, which mandates a 10 percent reduction in all state appropriations. Iowa Code section 8.38 states "No state department, institution, or agency . . . shall expend funds or approve claims in excess of the appropriations made thereto, nor expend funds for any purpose other than that for which the money was appropriated."

To implement the disenrollment provisions, each member will be assigned a payment slot number based on the member's application date and commitment status. The lowest numbers will be assigned to members in involuntary commitment status. When the person is released from the commitment order, a new payment slot will be assigned according to the procedures for all other applicants.

When disenrollment is necessary, members will be disenrolled in reverse order of their payment slot numbers, i.e., with the highest number (most recent approval) first. The Department will give members timely and adequate notice of the funding decision. This action will be subject to appeal according to the Department's procedures, which provide for continuation of assistance until the final appeal decision is reached, with recoupment of excess assistance if the final decision upholds the Department.

These amendments do not provide for waivers in specified situations other than the preference accorded to funding for involuntary services provided under court commitment. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission adopted these amendments on December 22, 2009.

The Department finds that notice and public participation are impracticable and contrary to the public interest because the need to reduce expenses in the State Payment Program is imminent. The Department is constitutionally and statutorily required to reduce spending obligations to the level of authorized appropriations. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(3).

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2) and (3), that the normal effective date of these amendments should be waived because averting deficit spending is a public benefit and because of imminent peril to the public welfare that would be caused if appropriations are exhausted and all clients must be discharged from services.

These amendments are also published herein under Notice of Intended Action as **ARC 8438B** to allow for public comment.

These amendments are intended to implement Iowa Code section 331.440.

These amendments became effective on January 1, 2010.

The following amendments are adopted.

ITEM 1. Amend subrule 153.53(3) as follows:

**153.53(3) Application submission.** The CPC or the CPC's designee shall:

~~a. submit~~ Submit the complete application as defined in subrule 153.53(2) to the division within 15 business days of the date the CPC or designee receives a completed and signed CPC application form containing a properly completed legal settlement worksheet.

~~b. Generate a delivery receipt for the application, whether sent to the division by E-mail, fax, or certified mail. The division may require the delivery receipt when it is alleged that an application was sent but the division has no record of receiving the application.~~

ITEM 2. Amend subrules 153.54(3) and 153.54(5) as follows:

**153.54(3) *Effective date of eligibility.***

~~a. An applicant's eligibility for state payment program funding shall be effective from the date of application date as defined in subrule 153.53(4).~~

~~b. A member shall remain eligible until:~~ Each member shall be assigned a payment slot number based on the member's application date and commitment status.

~~(1) The member has not received services for 12 months; or~~ Members under a court-ordered involuntary commitment shall be considered the first priority for payment slot number assignment, in order of oldest commitment date first. The CPC shall notify the department within seven days of the date when the commitment order is released. When the commitment order is released, the member shall be reassigned a payment slot according to subparagraph 153.54(5) "b"(2).

~~(2) The CPC in the county of residence notifies the state payment program manager that the member is no longer eligible.~~ Slot number assignment for members who are not under an involuntary commitment order shall be based on the application date. For a member who was on a commitment order which has been released, the application date is the date of the member's first commitment order or the member's original application date, whichever is earliest. If there are multiple members with the same application date, the members will be prioritized by the birth month and day (earliest birth date first). If there are multiple members with the same birth month and day, the last four digits of the members' social security numbers will be used, with the lowest number being considered first.

**153.54(5) *Waiting list.*** Funds available for the program shall first be used to continue assistance to persons currently receiving assistance from the program. The department shall start a waiting list when analysis of submitted expenditure reports indicates that the amount of funds needed to pay for the currently assigned payment slots exceeds the state payment program appropriation funds are fully encumbered.

~~a. No change.~~

~~b. Placement on the waiting list.~~ When a waiting list is in effect, all new applications shall be placed on the waiting list, with the following exceptions: exception of applicants who are subject to an involuntary commitment. Applicants who are subject to an involuntary commitment are exempted from waiting list placement for the services listed on the court order when the CPC includes a copy of relevant court orders directing services under Iowa Code chapter 229 for which payment is sought. If this documentation is not included, the application will be placed on the waiting list.

~~(1) Applicants who are subject to an involuntary commitment when the CPC includes a copy of the evaluation and placement court order documentation with the application packet to verify that the applicant has been involuntarily placed. If this documentation is not included, the application will be placed on the waiting list.~~

~~(2) Applicants awaiting community placement from an involuntary inpatient setting.~~

~~c. and d. No change.~~

ITEM 3. Amend subrule 153.55(2) as follows:

**153.55(2) *Excluded costs.*** The following costs are excluded from payment by the state payment program:

~~a. and b. No change.~~

~~c. Scheduled appointments or consultations for which the member did not appear.~~

~~d. Service management (county chart of accounts numbers beginning with 22-000) for members eligible for Medicaid targeted case management, unless the Iowa plan contractor decertifies the member for case management services.~~

e. Services described by the following county chart of accounts codes:

- (1) 4x03, information and referral.
- (2) 4x04, consultation.
- (3) 4x11, direct administrative.
- (4) 4x12, purchased administrative.
- (5) 4x21-374, case management Medicaid match.
- (6) 4x32-328, home/vehicle modification.

ITEM 4. Amend subparagraph **153.56(2)“a”(3)** as follows:

(3) Closing data system files on members as directed by the counties, or when the member has not had any payments processed for a ~~12-month~~ six-month period.

ITEM 5. Amend rule 441—153.57(331) as follows:

**441—153.57(331) Reduction, denial, or termination of benefits.** The member’s state payment program benefits may be denied, terminated, or reduced according to the provisions of the approved county management plan of the member’s county of residence.

**153.57(1) Termination of eligibility.** A member shall remain eligible until:

- a. Reimbursement for episodic commitment costs has been made to the county if the member was enrolled for commitment costs only;
- b. The CPC in the county of residence notifies the state payment program manager that the member is no longer eligible;
- c. No services have been reported for the member for six months; or
- d. The member is disenrolled pursuant to subrule 153.57(2).

**153.57(2) Disenrollment.** If instituting a waiting list does not adequately address the funding shortfall, the department shall begin disenrollment of members.

a. Members who are enrolled and receiving services being reimbursed by the state and who are not under court-ordered involuntary commitment shall be disenrolled beginning with the highest payment slot number first.

b. The department shall notify the member and the CPC when a member is to be disenrolled. The department shall give the member at least ten days’ notice of disenrollment pursuant to rule 441—7.7(17A). The department shall give a member receiving any residential service 30 days’ notice of disenrollment from the program consistent with department of inspections and appeals’ rule 481—57.36(135C).

c. Any member who is disenrolled shall be placed on the waiting list as provided in subrule 153.54(5).

ITEM 6. Amend subrule 153.58(1) as follows:

**153.58(1)** Decisions regarding denial or termination of state payment program eligibility of any applicant and decisions adversely affecting applicants or members who are not eligible, including disenrollment, may be appealed to the department pursuant to 441—Chapter 7. Continuation of assistance will be granted pursuant to rule 441—7.9(17A).

[Filed Emergency 12/23/09, effective 1/1/10]

[Published 1/13/10]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/13/10.